IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF DECEMBER,
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION No.25665 OF 2006

Between:

M/s.Soma Srinivasa Reddy,
Himayathnagar, Hyderabad,
Rep. by its Managing Partner,
Sri S.Srinivasa Reddy.

..... PETITIONER

AND

The Commercial Tax Officer,
Narayanaguda Circle,
Hyderabad and another.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.25665 OF 2006

O R D E R
(Per Sri Justice J.Chelameswar)

The petitioner is a partnership firm and a registered dealer on the rolls of the first respondent, under the A.P. General Sales Tax Act carrying on business in works contract and executing various civil works. For the assessment year 2002-2003, the tax liability of the petitioner under the abovementioned Act was determined by the first respondent by order dated 30.03.2005. Aggrieved by the same, the petitioner carried the matter in appeal before the second respondent. Eventually the said appeal came to be dismissed by an order dated 06.06.2006. Challenging the same, the petitioner carried the matter in a further appeal before the Sales Tax Appellate Tribunal. As the stay application filed by the petitioner during the pendency of the appeal before the first appellate authority was already dismissed, the petitioner apprehends that it would not serve any useful purpose to file an application before the Departmental Officer during the pendency of the appeal before the Tribunal. Hence, the present writ petition with a prayer as follows:

> **" … Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or order or direction declaring the action of the 1st respondent in insisting payment of disputed tax in pursuance of dismissal of the appeal by 2nd respondent by his order**

dated 6.6.2006 as illegal, arbitrary and unjustified and consequently restrain the 1st respondent from taking any coercive steps for recovery of balance disputed tax of Rs.5,87,483/- for the assessment year 2002-03 pending disposal of the appeal before the Sales Tax Appellate Tribunal, Hyderabad, and pass …"

Heard the learned Government Pleader.

In the circumstances, we are of the opinion that the writ petition can be disposed of at the admission stage itself by directing the respondents not to take any coercive steps for recovery of the disputed tax during the pendency of the appeal before the Sales Tax Appellate Tribunal on condition the petitioner deposits 50% of the disputed tax, within a period of six weeks from today. The amount of tax, if any, paid already towards the disputed tax, shall be given credit while computing the above-mentioned amount of 50%.

With the above direction, the writ petition is disposed of.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

11th DECEMBER, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.25665 OF 2006
(Per Sri Justice J.Chelameswar)

11TH DECEMBER, 2006